

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PROPOSED
2.2.101 pertaining to the Department of) AMENDMENT
Administration's Procedural Rules)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On September 14, 2009, the Department of Administration proposes to amend the above-stated rule.

2. The Department of Administration will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., August 14, 2009, to advise us of the nature of the accommodation that you need. Please contact Shannon Lewis, Department of Administration, 125 N. Roberts, Room 155, P.O. Box 200101, Helena, Montana 59620-0101, telephone (406) 444-2032, fax (406) 444-6194, or e-mail slewis@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

2.2.101 MODEL PROCEDURAL RULES (1) The Department of Administration adopts and incorporates by reference the following model rules, which may be found at <http://sos.mt.gov/>:

(a) the Attorney General's model procedural rules, ARM 1.3.101, 1.3.102, and 1.3.201, 1.3.202, 1.3.210 through 1.3.224, and 1.3.226 through 1.3.233, including the appendix of sample forms in effect [effective date of amendment]. These rules provide model rules of practice for contested case hearings and declaratory rulings; and

(b) the Secretary of State's model rules ARM 1.3.301, 1.3.302, 1.3.304, 1.3.305, 1.3.307 through 1.3.309, and 1.3.311 through 1.3.313 in effect [effective date of amendment]. These rules define model requirements for rulemaking under the Montana Administrative Procedure Act. ~~one through 28 and all subsequent amendments to the model procedural rules, and incorporates herein those rules by reference.~~

AUTH: 2-4-201, MCA
IMP: 2-4-201, MCA

STATEMENT OF REASONABLE NECESSITY: The department is proposing to amend the above-stated rule to reflect recent updates to the Attorney General and Secretary of State's Model Rules so that the current model rules are reflected in the

rule.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action either orally or in writing, no later than 5:00 p.m. on August 31, 2009, to Shannon Lewis, Department of Administration, 125 N. Roberts, Room 155, P.O. Box 200101, Helena, Montana 59620-0101; telephone (406) 444-2032; fax (406) 444-6194; or e-mail slewis@mt.gov.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Shannon Lewis at the above address no later than 5:00 p.m., August 31, 2009.

6. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be greater than 25 persons based on the number of individuals interested in rulemaking by the department.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this department. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the Department of Administration.

8. An electronic copy of this proposal notice is available through the Department of Administration's web site at <http://doa.mt.gov/administrativerules.asp>. The Department of Administration strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and electronic version of the notice, only the official printed text will be considered. In addition, although the Department of Administration works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State July 20, 2009.